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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,563	07/25/2003	Daniel J. Kessler	109889	9337
25944	7590	04/28/2005		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER HSIEH, SHIH YUNG	
			ART UNIT	PAPER NUMBER

2837

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,563

Applicant(s)

KESSLER, DANIEL J.

Examiner

Shih-yung Hsieh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,10-13,15,16,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,7 and 8 is/are allowed.
- 6) ☒ Claim(s) 10-13,15,16,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 10 and 15-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Hearfield (6,410,834).

Regarding claim 10, Hearfield discloses a protective instrument cover, comprising a front portion (2) that extends over substantially an entire front surface of an instrument body (Fig. 1); and is between the stringed instrument body and a string of the stringed instrument body; and a fastener (13, 14) that attaches the front portion of the cover to the front surface of the stringed instrument body (Figs. 1-4).

Regarding claim 15, Hearfield discloses the claimed invention.

Regarding claim 16, Hearfield discloses the claimed invention (col. 2, lines 9-11, and claim 4).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messina in view of Britto et al. (5,763,796).

Regarding claim 18, Messina discloses the claimed invention except that at least one of the front portion, the back portion or the side portion comprises stretchable material.

Britto et al. teach using spandex material (col. 4, lines 24-25) as a stretching cover for a tightly cover of a musical instrument. It would have been obvious to one having ordinary skill in the art to modify Messina's cover as taught by Britto et al. to include the material comprising spandex for the purpose of providing a stretching cover for a tightly cover of a musical instrument.

5. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hearfield in view of Britto et al.

Regarding claims 12 and 19, Hearfield discloses the claimed invention except that at least part of cover comprises stretchable material.

Britto et al. teach using spandex material (col. 4, lines 24-25) as a stretching cover for a tightly cover of a musical instrument. It would have been obvious to one having ordinary skill in the art to modify Hearfield's cover as taught by Britto et al. to include the material comprising spandex for the purpose of providing a stretching cover for a tightly cover of a musical instrument.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hearfield in view of Britto et al. as applied to claim 19 above, and further in view of Wise, Jr. (6,576,823).

Regarding claim 11, see item 5 of office action of 1/3/2005.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hearfield in view of Britto et al. as applied to claim 19 above, and further in view of Toth (3,877,501).

Regarding claim 13, see item 7 of office action of 1/3/2005.

8. Claims 1-5, and 7-8 are allowed.

9. Applicant's arguments with respect to claims 10-13, 15-16, and 18-19 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shih-yung Hsieh whose telephone number is 571-272-2065. The examiner can normally be reached on 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

syh


SHIH-YUNG HSIEH
PRIMARY EXAMINER